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MS PETITION
PATENT
1155-0198P

IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant: Mitsuhiro HIGASHI et al. Conf.: 4222
Intl. Appln: PCT/JP99/05273 filed September 28, 1999
Appl. No.: 09/555,255 Group: UNASSIGNED
Filed: May 26, 2000 Examiner: UNASSIGNED
For: ORTHOALKYLATION CATALYST FOR PHENOL &
PROCESS FOR PRODUCING ORTHOALKYLATED
PHENOL USE THEREOF

SUPPLEMENTAL PETITION FOR REVIVAL OF AN APPLICATION

MS PETITION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

September 10, 2003

Sir:

Supplemental to the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b)f filed July 25, 2003, enclosed is some additional information and an additional request that consideration be given to converting the Petition filed July 25, 2003 to a Petition alternatively submitted under the "unavoidable" standard of 37 C.F.R. § 1.137(a). After summarizing this additional information, reasons in support of continuing and perhaps converting this Petition are provided.

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OFFICE OF PETITIONS

Most Recent IB PCT and USPTO Communications

The International Bureau (IB) of the World Intellectual Property Organization (WIPO) recently sent a letter clearly admitting the mistake on the part of the IB for failing to have communicated a copy of the International Application (IA No. PCT/JP99/05273) to the Designated Office, i.e. the USPTO. It is clear from the letter (copy enclosed) that this was completely the fault of the IB.

Also enclosed is a copy of USPTO Communications entitled "Withdrawal of Previously Sent Notice" and "Notification of Defective Response Abandonment" both dated August 15, 2003. It appears the basis for the issuance of these USPTO Communications was the failure of the WIPO IB to send a copy of the PCT International Application to the USPTO.

Request for Consideration of Petitions for Revival Unintentional and Unavoidable

In view of the above, and supplemental to the previously submitted "Unintentional" Petition filed July 25, 2003, this is a request that the previously submitted Petition, taking into consideration and above-noted information, be converted into an alternative "Unavoidable" Petition. If the Unavoidable Petition is not granted, then it is requested that the Unintentional Petition be granted.

It is clear from the WIPO IB letter of August 14, 2003 that the WIPO IB simply failed to proceed correctly under applicable PCT Articles with regard to forwarding the International Application to the USPTO. Since Applicants have no control over the WIPO IB, it is submitted that this procedural error was "unavoidable" under 37 C.F.R. § 1.17(a).

If the Unavoidable Petition is granted, it is requested that a refund be submitted in connection with the Deposit Account information below for the difference between the fees of Unavoidable and Unintentional Petitions.

If any questions arise regarding these matters, please contact Applicants' representative, Andrew D. Meikle, in the Washington Metropolitan area at the telephone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fee required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 

Andrew D. Meikle, #32,868

ADM/bsh
1155-0198P

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enclosures: Copy of WIPO IB Letter of August 14, 2003;
Copy of Withdrawal of Previously Sent Notice
of August 15, 2003;
Copy of Notification of Defective Response
Abandonment of August 15, 2003